

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JEREMY JAMES FIGUEROA,

Petitioner,

V.

DAVID BAUGHMAN (Warden),

Respondent.

Case No. LA CV 17-02032-VBF-SK

ORDER

Overruling Petitioner's Objections;
Adopting the Report & Recommendation;

Denying the Habeas Corpus Petition;

Dismissing the Action With Prejudice;
Directing Issuance of Separate COA Ruling;
Directing Entry of a Separate Final Judgment;

Terminating and Closing the Action (JS-6)

Pursuant to 28 U.S.C. § 636(b)(1), the Court has reviewed the Petition for Writ of Habeas Corpus by a Person in State Custody Pursuant to 28 U.S.C. section 2254 (CM/ECF Document (“Doc”) 1), the respondent warden's answer and accompanying memorandum (Doc 10), the relevant decision(s) of the California state courts, the state-court “lodged documents” submitted by the respondent in paper form (listed in the index at Doc 11), petitioner's reply (Doc 18), the Report and Recommendation (“R&R”) issued by the United States Magistrate Judge pursuant to Fed. R. Civ. P. 72(b)(1) and 28 U.S.C. § 636(b)(1)(B) on October 6, 2017 (Doc 20), petitioner's objections to the R&R (Doc 26), and the applicable law.

1 “Federal Rule of Civil Procedure 72(b)(2) g[ives] respondent a right to respond to the
2 objections,” *Ruelas v. Muniz*, No. SA CV 14-01761-VBF, 2016 WL 540769, *1 (C.D. Cal. Feb. 9,
3 2016), and that response period has not yet elapsed. “Nonetheless, because the Court is ruling in
4 favor of the respondent, then respondent cannot be prejudiced by the Court ruling without waiting
5 for its possible response to petitioner’s objections.” *Hicks v. Gipson*, 2017 WL (C.D. Cal. Feb. 15,
6 2017) (quoting *Adams v. Borders*, 2016 WL 4520906, *1 n.1 (C.D. Cal. Aug. 29, 2016)); *see also*
7 *Ismail v. Ford*, 2014 WL 1681993, *1 n.2 (C.D. Cal. Apr. 29, 2014).

8 “As required by Fed. R. Civ. P. 72(b)(3), the Court has engaged in de novo review of the
9 portions of the R&R to which petitioner has specifically objected and finds no defect of law, fact,
10 or logic in the . . . R&R.” *Rael v. Foulk*, 2015 WL 4111295, *1 (C.D. Cal. July 7, 2015), *COA*
11 *denied*, No. 15-56205 (9th Cir. Feb. 18, 2016).

12 “The Court finds discussion of [the] objections to be unnecessary on this record. The
13 Magistrates Act ‘merely requires the district judge to make a de novo determination of those portions
14 of the report or specified proposed findings or recommendation to which objection is made.’” It
15 does not require the district judge to provide a written explanation of the reasons for rejecting
16 objections. *See MacKenzie v. California AG*, 2016 WL 5339566, *1 (C.D. Cal. Sept. 21, 2016)
17 (Fairbank, J.) (quoting *US v. Bayer AG*, 639 F. App’x 164, 168-69 (4th Cir.) (per curiam) (“The
18 district court complied with this requirement. Accordingly, we find no procedural error in the
19 district court’s decision not to address specifically Walterspiel’s objections.”), *cert. denied*, – U.S.
20 –, 137 S. Ct. 162 (2016)) (brackets & internal quotation marks omitted). “This is particularly true
21 where, as here, the objections are plainly unavailing.” *Smith v. California Judicial Council*, 2016
22 WL 6069179, *2 (C.D. Cal. Oct. 17, 2016). Accordingly, the Court will accept the Magistrate
23 Judge's factual findings and legal conclusions and implement his recommendations.

24
25 ORDER

26 Petitioner's objection [**Doc # 26**] is **OVERRULED**.

27 The Magistrate Judge’s Report and Recommendation [**Doc # 20**] is **ADOPTED**.

28 The petition for a writ of habeas corpus [**Doc # 1**] is **DENIED**.

1 The Court will contemporaneously rule on a certificate of appealability. *See Henderson v.*
2 *United States*, 2015 WL 66509, *2 (D. Idaho Jan. 5, 2015) (Winmill, C.J.). **The COA ruling will**
3 **be made by separate order.** *See, e.g., Roybal v. Davis*, 148 F. Supp.2d 958, 1125 (S.D. Cal. 2015).

4 **Final judgment will be entered consistent with this order.** “As required by Fed. R. Civ.
5 P. 58(a), the Court will enter judgment by separate document.” *Toy v. Soto*, 2015 WL 2168744, *1
6 (C.D. Cal. May 5, 2015) (citing *Jayne v. Sherman*, 706 F.3d 994, 1009 (9th Cir. 2013)) (n. 1
7 omitted), *COA denied*, No. 15-55866 (9th Cir. Jan. 20, 2016).

8 **This action is DISMISSED with prejudice.**

9 The case SHALL BE **TERMINATED** and closed (JS-6).

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12 Dated: December 20, 2017



13 Valerie Baker Fairbank

14 Senior United States District Judge
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